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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,077	09/02/2003	Michael Green	15772.0013	1509
23517 7590 11/28/2007 BINGHAM MCCUTCHEN LLP 2020 K Street, N.W. Intellectual Property Department WASHINGTON, DC 20006			EXAMINER SHAND, ROBERTA A	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 11/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/652,077	<b>Applicant(s)</b> GREEN, MICHAEL	
	<b>Examiner</b> Roberta A. Shand	<b>Art Unit</b> 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/9/52005</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Chohan (U.S. 2004/0120362 A1).

3. Regarding claim 1, Chohan teaches (fig. 1) a method of provisioning a circuit comprising the steps of: provisioning an Ethernet port facility, including determining members of a LCAS VCG before virtual tributary or synchronous transport signal cross connections are provisioned (paragraphs 39-40) and before SONET or SDH cross-connections are provisioned (paragraph 24); provisioning virtual tributary or synchronous transport signal cross connections paragraph 41); and provisioning Synchronous Optical Network or Synchronous Digital Hierarchy cross-connections paragraph 24).

4. Regarding claims 2 and 6, Chohan teaches (fig. 1) provisioning the Ethernet port facility so that VCG members that are not associated with a virtual tributary or synchronous transport signal cross connection return an LCAS sink status of FAIL and Virtual Concatenation Group

members that are not associated with a virtual tributary or synchronous transport signal cross 8 connection enter an operational LCAS source state of "Do Not Use" (paragraphs 39-41).

5. Regarding claims 3 and 7, Chohan teaches (paragraph 39) using LCAS source and sink adaptation functions, automatically activating the Virtual Concatenation Group members.

6. Regarding claims 4 and 8, Chohan teaches (paragraph 39) causing the VCG members to have an LCAS sink status of OK and an operational LCAS source state of NORM or EOS.

7. Regarding claim 5, Chohan teaches (fig. 1) a system for provisioning a circuit comprising: means for provisioning an Ethernet port facility, including determining members of a LCAS VCG before virtual tributary or synchronous transport signal cross connections are provisioned (paragraphs 39-40) and before SONET or SDH cross-connections are provisioned (paragraphs 24); means for provisioning virtual tributary or synchronous transport signal cross connections (paragraphs 41); and means for provisioning SONET or SDH cross-connections (paragraphs 24).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A. Shand whose telephone number is 571-272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.

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9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roberta A Shand  
Examiner  
Art Unit 2616



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
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